

## **SUMMARY OF THE END RACIAL PROFILING ACT OF 2015**

The End Racial Profiling Act is designed to enforce the constitutional right to equal protection of the laws by eliminating racial profiling through changing the policies and procedures underlying the practice. First, the bill provides a prohibition on racial profiling, enforceable by declaratory or injunctive relief. Second, the bill mandates that training on racial profiling issues as part of Federal law enforcement training, the collection of data on all routine or spontaneous investigatory activities that is to be submitted through a standardized form to the Department of Justice. Third, the receipt of federal law enforcement and other funds that go to state and local governments is conditioned on their adoption of effective policies that prohibit racial profiling. Fourth, the Justice Department is authorized to provide grants for the development and implementation of best policing practices, such as early warning systems, technology integration, and other management protocols that discourage profiling. Finally, the Attorney General is required to provide periodic reports to assess the nature of any ongoing discriminatory profiling practices.

### **Title I: Prohibition on Racial Profiling**

This Title would ban racial profiling, defined generally as the practice of a law enforcement agent relying, to any degree, on race, ethnicity, religion, national origin, sexual orientation, gender or gender identity in selecting which individuals to subject to routine or spontaneous investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and time frame, that links persons of a particular race, ethnicity, religion, national origin, or gender to an identified criminal incident or scheme.

The Department of Justice or individuals would be able to enforce this prohibition by filing a suit for injunctive relief.

### **Title II: Programs to Eliminate Racial Profiling by Federal Law Enforcement**

This Title would require federal law enforcement agencies – such as the DEA, FBI, INS, and Customs Service – to cease practices that encourage racial profiling and to adopt policies and procedures to eliminate racial profiling, including the following:

- A prohibition on racial profiling;
- Training on racial profiling issues as part of law enforcement training;
- The collection of data on routine investigatory activities, in accordance with Title IV;
- Procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling; and
- Policies requiring corrective action when law enforcement agents engage in racial profiling.

Title III: Programs to Eliminate Racial Profiling by State, Local, and Indian Tribal Law Enforcement, Requirements for Continued Receipt of Federal Funds

This Title would require State, local, and Indian tribal law enforcement agencies to cease practices that encourage racial profiling and adopt policies and procedures to eliminate racial profiling, including the following:

- A prohibition on racial profiling;
- Training on racial profiling issues as part of law enforcement training;
- The collection of data on routine investigatory activities, in accordance with Title IV;
- Procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling; and
- Policies for corrective action when law enforcement agents engage in racial profiling

Effective twelve months after enactment of this Act, this Title would require a grant applicant to certify that it has established and is maintaining either:

- An administrative complaint procedure allowing any person to file a complaint either orally or in writing; in person or by mail, telephone, facsimile, or electronic mail; and anonymously or through a third party; or
- An independent auditor program requiring an appointed independent auditor to issue a public report each year.

If the Attorney General determines that a grantee of specified federal funds is not in compliance with these requirements, the Attorney General is to withhold all or part of the grant, until compliance is established.

The Attorney General shall administer a two-year, five-site demonstration project for the purpose of developing and implementing data collection on hit rates for stops and searches. Competitive grants issued pursuant to this Section include:

- Developing a data collection tool;
- Training law enforcement personnel on data collection;
- Collecting data on hit rates for stops and searches; and
- Reporting the compiled data to the Attorney General.

This Title would also authorize the Attorney General to provide grants to for the development and implementation of best practices to eliminate racial profiling, such as the following activities:

- Training to prevent racial profiling and to encourage more respectful interaction with the public;
- Acquisition and use of technology to facilitate the collection of data; and
- Systems and procedures for receiving, investigating, and responding to complaints alleging racial profiling.

#### Title IV: Data Collection

Not later than six months after enactment of this Act, the Attorney General shall issue regulations for the collection and compilation of data pursuant to Titles II and III. Not later than three years after enactment of this Act and annually thereafter, the Bureau of Justice Statistics must issue a report to Congress analyzing the data on racial profiling by federal, state and local law enforcement agencies. The annual report and data must be made available to the public, however, Identifying information of the law enforcement officer or the complainant must not be

- Released to the public; or
- Disclosed to any person, except as necessary to comply with this Act.

#### Title V: Department of Justice Regulations and Reports on Racial Profiling in the United States

The Attorney General is authorized to promulgate other regulations deemed necessary to implement this Act. Not later than two years after enactment of this Act and each year thereafter, the Attorney General must submit to Congress a report on racial profiling by law enforcement agencies. This report shall include a summary of the data collected pursuant to Titles II and III.

#### Title VI: Miscellaneous Provisions

If any provision of this Act is held unconstitutional, the remainder of the act shall not be affected. Nothing in this Act affects the federal, tribal or state laws that apply to American Indians because of their political status as Indians or waives tribal sovereign immunity without consent. Additionally, nothing in this Act shall be construed to limit legal or administrative remedies under specified statutes.